Return Date: December 5, 2022 9:00 A.M.
Chapter 11
Case No. 20-23177 (RDD)

DEBTOR'S RESPONSE TO THE LIMITED OBJECTIONS FILED BY THE CREDITOR'S COMMITTEE, ESTATE OF HOWARD BLITMAN AND THE CITY OF SARATOGA SPRINGS

To the Honorable Sean H. Lane, United States Bankruptcy Judge:

The Debtor herein, Blitman Saratoga, LLC (the "<u>Debtor</u>"), as and for its Response to the Limited Objections filed by the Official Committee of Unsecured Creditors, the estate of Howard Blitman and the City of Saratoga Springs (collectively, the "<u>Objectors</u>") to the Debtor's Motion (the "<u>Motion</u>") to approve the sale (the "Sale") of the completed home (Lot 14) at 57 Jane Street, Saratoga Springs, New York (the "Home") to Tom and Marlene Guiffre (the "Guiffre Family"), respectfully states as follows:

Overview

1. It appears that the Objectors are all in agreement that the sale of the Home for \$538,000 can and should proceed. Indeed, the Debtor's major challenge at this point is liquidity: the need to generate funds to resume construction on completing infrastructure and the four remaining homes under contract. Thus, the sale of the Home should be viewed as positive step forward that will help provide badly needed operating capital. The Debtor has obtained the agreement of the DIP Lender (Saratoga Funding LLC) to defer payment of its release prices under the pre-petition secured loan so that all net proceeds can be used to resume construction.

2. Once the sale is closed, the questions of the day then become (i) how much is expected to be generated by the Sale; and (ii) how will the net Sale proceeds be specifically used? The Debtor understands the inquiry and this Response is dedicated to answering these questions.

A. Projected Closing Statement

- 3. The Debtor projects that the Sale will generate net sale proceeds of \$509,525 (including the \$43,800 deposit) after payment of taxes, closing costs and reserve for brokerage. A draft closing statement reflecting the foregoing is annexed hereto as Exhibit "A".
- 4. The key to generating maximum liquidity is the DIP Lender's agreement to defer paydowns totaling \$283,985, as reflected on Exhibit "A". These monies are owed to the DIP Lender by virtue of the prior assignment of the pre-petition secured loans and mortgages held by Ballston Spa National Bank. Given the Debtor need for immediate cash, these funds are being dedicated to infrastructure.
- 5. The only party who could conceivably object to the deferment is the Estate of Howard Blitman, as represented by Ken Lewis, Esq. The Blitman Estate is a co-guarantor of the pre-petition secured debt and would like to see all of the Sale proceeds used to pay-down this debt, pointing to the structure of the original DIP Financing Orders.
- 6. However, market and business conditions have changed dramatically over the last year. At this point, infrastructure is a top priority and needs to be addressed in connection with this Sale. Hence, the deferment. There is also precedent in the case for deferring payments to the DIP Lender. This was done in connection with the sales of the properties at 47 Jane Street and 49 Jane Street, under which the Order approving the sales [See, ECF No. 108] authorized the Debtor to establish a Confirmation Fund of \$600,000 for Plan purposes, following negotiations with the Creditors' Committee. These funds remain in escrow and are still being dedicated for Plan

purposes. During the prior hearings, the Court characterized the deferral as a permitted modification of the DIP Financing Orders.

7. As similar modification should apply here. The Blitman Estate should prepare itself for a deficiency, since the project cannot possibly be completed without deferrals.

B. Updated Infrastructure Budget

- 8. The Debtor's representative, Tom Keaney, and the undersigned, are scheduled to meet with the City of Saratoga Springs during the week of December 5, 2022 to discuss a timeline and budget for completion of the infrastructure for all phases of the project (Sections I VII), which relate to, inter alia, internal streets, street lights and water lines.
- 9. Annexed hereto as <u>Exhibit</u> "B" is a current budget for infrastructure. The Debtor is dedicating \$375,000 of the net Sale proceeds to perform highlighted work on Phase I, II (partial), III, IV and V. Following the meeting with the City of Saratoga Springs (and likely the Beaver Pond Village Homeowners Association), this work will proceed promptly.
- 10. The remaining balance of the net proceeds of about \$134,000 will be used for construction of the last four homes, with the goal of generating another closing. The Debtor will also make a big push to sell the dozen or so vacant lots in order to generate additional funds as well. In the interim, however, there can be no movement forward without approval of the Sale and maximization of the net proceeds for infrastructure and construction.
- 11. Howard Blitman was the original developer of the project prior to his replacement and subsequent death. The financial investors fault the Blitman family for all of the pre-petition delays in completing the project, which is the subject of state court litigation.
- 12. From the Debtor's perspective, this litigation will ultimately play itself out and should not impede the Sale or resumption of construction.

WHEREFORE, the Sale of 57 Jane Street should be approved with the net proceeds to be used as outlined above.

Dated: New York, New York December 2, 2022

> Goldberg Weprin Finkel Goldstein LLP Attorneys for the Debtor 1501 Broadway, 22nd Floor New York, New York 10036 (212) 221-5700

By: /s/ Kevin J. Nash

EXHIBIT A

SELLER'S DRAFT CLOSING STATEMENT

Mazzotta & Vagianelis, P.C. 9 Washington Square , New York 12205

SELLER:

Blitman Saratoga LLC

EIN# 45-4897437

PURCHASER:

Thomas and Marlene Guiffre

PROPERTY:

57 Jane Street (LOT #14 Beaver Pond Village), City of Saratoga Springs

DATE:

tbd

DUE TO SELLER:				
Purchase Price:			\$	538,000.00
Cost of Upgrades: (valued at \$56,463)			incl	uded above
ADJUSTED PURCHASE PRICE:			\$	538,000.00
2022-2023 School Taxes (estimated - to be adjusted)			\$	1,000.00
2022 City Taxes (estimated - to be adjusted)			\$	500.00
Water Meter Installation			\$	350.00
Survey Fee:			\$	850.00
TOTAL DUE TO SELLER:			\$	540,700.00
CREDITS DUE TO PURCHASER:				
Deposit on Contract: \$43,800 held by M&V, P.C. (no bond)			\$	43,800.00
Interest on Escrow Account (estimated - to be adjusted)			\$	50.00
			\$	(43,850.00)
ADJUSTED BALANCE:			\$	496,850.00
Expenses of Seller to be Paid by Purchaser				
(1) Saratoga County - Release of 57 Jane Collateral / Saratog	ga Fundir	ng:		
Release of Mortgage	\$	55.00		
UCC-3	\$	40.00	\$	95.00
(2) NYSDOS - Release of 57 Jane Collateral / Saratoga Fundii	ng:			
NYSDOS - UCC3 (Lot release)	\$	40.00		
NYSDOS - UCC3 (LOC Lot Release)	\$	40.00	\$	80.00
(3) Real Estate Commissions (based on Original Purchase Pr	ice - \$43	8,000)		
(KW Commission, \$10,950, Julie and Co. \$10	,950		\$	21,900.00
(4) Attorney Fee: Mazzotta & Vaianelis, PC (est.)			\$	1,550.00
(5a) Mortgage Release Fee Saratoga Funding LLC	\$ 8	8,235.00 *		
(5b) Line of Credit Paydown due to Saratoga Funding LLC	\$ 19	5,750.00 *		
(6) Commissioner of Finance, City of Saratoga Springs				
City Tax (est)			\$	3,000.00
(7) Commissioner of Finance, City of Saratoga Springs				
School Tax (est)			\$	4,500.00
			\$	31,125.00
* note - to be dedicated for infrastructure - Letter of Credit of	completio	on	•	•
NET DUE TO SELLER AT CLOSING :			\$	465,725.00
Deposit on Contract: \$43,800 held by M&V, P.C. (no bond)			\$	43,800.00
			1,115	NAME OF PROPERTY OF STREET

\$ 509,525.00

EXHIBIT B

	Sitework To Date Estimate SECTION I			1			
	Project No.:	A12-010		1	Page 1 of 1		
	Project:	Beaver Po	nd Villa	ge			
	Location:	Saratoga S	prings,	NY			
	Date:						
item#	Item/Remarks	Quantity	Unit	Unit Cost	Subtotal	Completed	Pay Total
	Reference Sheet 14 from Boswell Engineering Plans						
23	Asphalt without Base (Top Coat - 1,100 If x 28')	30800	sf	\$1.50	\$46,200.00	0	\$0.00
28	Street Lighting (rewire)	9	est.	\$1,500.00	\$13,500.00	0	\$0.00
31	Concrete R.O.W. monuments	9	ea	\$250.00	\$2,250.00	0	\$0.00
32	As-Built Survey	998 4 7830	est.	\$12,000.00	\$12,000.00	0	\$0.00
33	Water Line Easement Resolution	13	est.	\$1,500.00	\$19,500.00	0	\$0,00
					\$93,450.00		

\$93,450.00 Letter of Credit Value - Expires May 1 2023 \$221,500.00

	Sitework To Date Estimate SECTION II			T			
	Project No.:	A12-010			Page 1 of 1		
	Project;	Beaver Po	nd Villa	ge			
	Location:	Saratoga Springs, NY					
	Date:						
item#	Item/Remarks	Quantity	Unit	Unit Cost	Subtotal	Completed	Pay Total
	Reference Sheet 14 and 15 from Boswell Engineering Pla	ins		1			
18	R.O.W. monuments	4	ea	\$250,00	\$1,000.00	0	\$0.00
21	Asphalt Pavement - Top 1 1/2" (1,250 If x 28')	35000	sf	\$1.50	\$52,500.00	0	\$0.00
22	Street Lighting (rewire)	5	est.	\$1,500,00	\$7,500.00	60.0	\$0.00
24	Rain Garden	4	ea	\$2,000.00	\$8,000.00	0	\$0.00
33	Water Line Resolution	17	ea	\$1,500.00	\$25,500.00	0	\$0.00
79,13	As-Builts	1601346	is	\$12,000.00	\$12,000.00	0	\$0.00
32	Remedy Curb Sidewalk at Nat Grid crossing	70 a 1 3 a).	ls	\$12,500.00	\$12,500.00	0	\$0,00
					\$119,000.00		

Reference Sheet 17 from Boswell Engineering Plans	5					
R.O.W. monuments	4	ea	\$250.00	\$1,000.00	0	\$0.00
Asphalt Pavement - Top 1 1/2" (2,000 lf x 28')	56000	sf	\$1.50	\$84,000.00	0	\$0.00
Concrete Sidewalks (2,250 lf)	11250	sf	\$9.00	\$101,250.00	0	\$0.00
Street Lighting - NEW	4	est.	\$6,000.00	\$24,000.00	0	\$0.00
Rain Garden	4	ea	\$2,000.00	\$8,000.00	0	\$0.00
Water Line Resolution	NA.	ea				
As-Builts	1	ls	\$12,000.00	\$12,000.00	0	\$0.00
			\$230,250.00			

\$349,250.00

Letter of Credit Value - Expires June 30 2023 \$294,000.00

	Sitework To Date Estimate SECTION III, IV, V			1	İ		
	Project No.:	A03-058			Page 1 of 1		
	Project:	Beaver Po	nd Villa	ge			
	Location:	Saratoga S	Springs,	NY			
	Date:			ļ			
item#	Item/Remarks	Quantity	Unit	Unit Cost	Subtotal	Completed	Pay Total
	SECTIONS III-V						
5	Asphalt Pavement - Top 1 1/2" (1,500 if x 28')	42000	sf	\$1.50	\$63,000.00	0	\$0.00
25	Concrete R.O.W. monuments	- 6	ea	\$250.00	\$1,500.00	0	\$0,00
29	Street Lighting (new)	10	est.	\$6,000.00	\$60,000.00	0	\$0.00
del stary	Street Lighting (rewire)	2	est.	\$1,500,00	\$3,000.00	0	\$0.00
30	Street Trees	30	69	\$500.00	\$15,000.00	0.0	\$0.00
31	Signage	10:41:00	ls	\$1,000.00	\$1,000,00	0	\$0.00
32	TopSoil and Seed ROW	Sept. 1989.	ls	\$3,000.00	\$3,000.00	0	\$0.00
33	Seeding of Disturbed Areas	10 Hall 2004	İs	\$3,000.00	\$3,000.00	0	\$0.00
32	As-Builts	1	est,	\$12,000.00	\$12,000,00	0	\$0,00

\$63,000.00 \$1,500.00 \$60,000.00 \$3,000.00 \$15,000.00 \$1,000.00 \$3,000.00 \$3,000.00 \$12,000.00

\$46,200,00 \$13,500,00 \$2,250.00 \$12,000.00 \$19,500.00

\$1,000.00 \$52,500.00 \$7,500.00 \$8,000.00

\$25,500.00 \$12,000.00 \$12,500.00

\$373,950.00

\$161,500.00 Letter of Credit Value - Expires May 1, 2023 \$136,250.00

	Sitework To Date Estimate SECTION VI - VII						
	Project No.:	A03-058			Page 1 of 1		
	Project:	Beaver Po	nd Villa	je			
	Location:	Saratoga S	Springs,	NY			
	Date:		ļ				
ltem#	Item/Remarks	Quantity	Unit	Unit Cost	Subtotal	Completed	Pay Total
	SECTIONS VI - VII		ļ				
5	Aphalt Pavement - Top 1 1/2" (2,250 lf)	63000	sf	\$1.50	\$94,500.00	0	\$0.00
6	Concrete Sidewalks - (2,550 If)	12750	sf	\$8.00	\$102,000.00	0	\$0.00
18	R.O.W. monuments	22	ea	\$250,00	\$5,500.00	0	\$0.00
19	Street Lighting	12	est.	\$5,600.00	\$67,200.00	0	\$0.00
20	Street Trees	61	est.	\$500.00	\$30,500.00	0	\$0.00
21	Signage	1	ls	\$1,000.00	\$1,000.00	0	\$0.00
24	Seeding of Disturbed Areas	1	ls	\$5,000.00	\$5,000.00	0	\$0.00
25	Construction Entrances (individual homes)	16	ea	\$1,000.00	\$16,000.00	0	\$0.00
26	Rain Garden	2	ea	\$2,000,00	\$4,000.00	0	\$0.00
	As-Builts	1	ls	\$18,000.00	\$18,000.00	0	\$0,00

\$343,700.00 Letter of Credit Value - Expires July 6 2023 \$268,000.00

Letter of Credit - BUDGET \$947,900.00 Letter of Credit Value - TOTAL \$919,750.00